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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ken Hanscom :
Application No. 09/930,120 :
Filed: August 14, 2001 :
Attorney Docket No. Q00-1027-US1 / :
11198.70 :

This is a decision on the petition under 37 CFR 1.137 filed December 10, 2007 which is being treated as a petition under 37 CFR 1.137(a) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper response to the final Office action mailed January 12, 2006. It is noted the instant petition is directed towards the Notice of Abandonment mailed October 31, 2007 which indicated applicant's failure to file a proper response to the final Office action mailed February 8, 2007 but, in fact, the application was abandoned on April 13, 2006 for failure to properly respond to the January 12, 2006 final rejection.


In regard to the January 12, 2006 final rejection, the examiner admitted in an interview summary mailed February 17, 2006 that the finality was not proper although he did not send out a replacement Office action until September 14, 2006. Applicant's amendment filed February 2, 2006 failed to put the case in condition for allowance and was thus not a proper response to the January 12, 2006 final rejection and the application should have gone abandoned at the end of the three month shortened statutory period for response. A subsequent final Office action was mailed February 8, 2007, an amendment was filed April 10, 2007 which did not put the application in condition for allowance, and a notice of abandonment was mailed October 31, 2007. A review of the February 8, 2007 Office action indicates the finality of the action was not proper for the reasons set forth in the instant petition. Therefore, the Office action should have been non-final, the amendment filed April 10, 2007 should have been treated as a timely filed response to a non-final Office action and the notice of Abandonment should not have been

mailed. Nevertheless this decision ratifies the ensuing prosecution and restores this application to pending status.

This application is returned to pending status and is being returned to Technology Center Art Unit 3654 for consideration of the amendment filed April 10, 2007 in due course.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.



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